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10 UNITED STATES DISTRICT COURT  
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
12 [San Francisco Division]

13 MANI SUBRAMANIAN, as an individual  
14 etc.,

15 Plaintiff,

16 vs.

17 ST. PAUL FIRE AND MARINE  
INSURANCE COMPANY, et al. (including  
18 QAD INC., a Delaware Corporation with  
principal place of business in California; JOHN  
19 DOORDAN, an individual and citizen of  
California; LAI FOON LEE, an individual and  
20 citizen of California; ROLAND DESILETS, an  
individual and citizen of New Jersey; and,  
21 WILLIAM D. CONNELL, an individual and  
citizen of California),

22 Defendants.  
23

**Case No. 08-cv-1426-VRW [ECF]**

Date: October 9, 2008

Time: 2:30 p.m.

Dept: Courtroom 6

Judge: Hon. Vaughn R. Walker

24 **[PROPOSED] ORDER**  
25 **GRANTING MOTION BY DEFENDANTS**  
26 **QAD INC., WILLIAM D. CONNELL, JOHN DOORDAN, AND LAI FOON LEE**  
27 **TO DISMISS COMPLAINT PURSUANT TO FRCP RULE 12(b)(6)**  
28

1 The Motion of defendants QAD INC., JOHN DOORDAN, LAI FOON LEE, and  
2 WILLIAM D. CONNELL (collectively "QAD-Related Defendants") to Dismiss the Complaint in  
3 the above-captioned action [Docket Nos. 29 and 30] came on regularly for hearing before this  
4 Court on October 9, 2008.

5 Upon consideration of the papers filed in support of, and in opposition to, the Motion, and  
6 hearing the oral arguments of counsel for defendants and of Plaintiff Mani Subramanian, and good  
7 cause appearing therefore,

8 IT IS HEREBY ORDERED:

9 The QAD-Related Defendants' Request for Judicial Notice [Docket No. 31] is GRANTED.

10 The QAD-Related Defendants' Motion to Dismiss Complaint pursuant to Rule 12(b)(6),  
11 Fed.R.Civ.Proc., is GRANTED. The Complaint, and each and every purported cause of action  
12 therein, fail to state any claim upon which relief can be granted as to the QAD-Related Defendants,  
13 in that:

14 1. The Complaint, and each and every cause of action therein, are barred by the  
15 doctrine of *res judicata*;

16 2. The First Cause of Action (to set aside this Court's Order dismissing the claims in  
17 Case No. 04-1249-VRW) is duplicative litigation and lacking any justification;

18 3. The Second, Fourth, and Fifth Causes of Action are barred by the statutes of  
19 limitations respectively applicable to each;

20 4. The Second Cause of Action is barred by the *Noerr-Pennington* doctrine; and,

21 5. The Complaint, and each and every cause of action therein, fail to state facts  
22 sufficient to set forth a claim for relief.

23 Based on the foregoing, the Complaint is dismissed in its entirety, with prejudice, and  
24 without leave to amend.

25 Dated: \_\_\_\_\_, 2008  
26

27 \_\_\_\_\_  
28 HON. VAUGHN R. WALKER  
Chief Judge, United States District Court